
STATE OF INDIANA



MEMORANDUM

TO: All School Corporations

FROM: Distressed Unit Appeal Board

DATE: April 17, 2012

SUBJECT: Policies and Procedures for Eligible School Corporations to Restructure Debt under I.C. 5-1-5-2.5

The purpose of this memorandum is to inform all school corporations of the procedures for filing required information with the Distressed Unit Appeal Board (DUAB) under I.C. 5-1-5-2.5 regarding a debt restructuring without going through the petition and remonstrance process requirements and referendum requirements that would otherwise apply.

DUAB MEMBERSHIP

DUAB Membership.

The DUAB consists of the following five (5) members:

- The Director of the Office of Management and Budget or designee (*Chairperson*).
- The Commissioner of the Department of Local Government Finance or designee.
- The State Examiner of the State Board of Accounts or designee.
- The State Superintendent of Public Instruction or designee.
- An individual appointed by the chairman of the legislative council.

PROCEDURES FOR FILING WITH THE DISTRESSED UNIT APPEAL BOARD

Prior to January 1, 2014, an eligible school corporation may use the debt restructuring statutes without going through the petition and remonstrance process requirements and referendum requirements that would otherwise apply. **A school corporation that desires to be an eligible school corporation must submit a written request for a certification of its weighted circuit breaker ratio by the Department of Local Government Finance (DLGF).** A school corporation is deemed to be eligible if it has a circuit breaker ratio of at least 20%, as certified by DLGF and has adopted a resolution setting forth such certification and other required determinations under I.C. 5-1-5-2.5(g).

Eligible school corporations that meet the required conditions under I.C. 5-1-5-2.5(d)(3)(B).

1. If a school corporation meets the 3 conditions under I.C. 5-1-5-2.5(d)(3)(B) and issues refunding bonds, the school corporation shall report information concerning the refunding to the DUAB not more than 60 days after the DLGF has certified the school corporation's circuit breaker impact percentage.
2. The school corporation's report to the DUAB shall include the following:
 - a. The resolution adopted by the school board under I.C. 5-1-5-2.5(d)(1), including:
 - i. The annual debt service payments, applicable debt service tax rate, and total debt service payments for the bonds proposed to be retired or refunded;
 - ii. The annual debt service payments, applicable debt service fund tax rate, and total debt service payments for the proposed refunding bonds;
 - iii. The annual increment for each year of the life of the bonds that are being retired or refunded and any other benefits to be derived from issuing the refunding bonds.
 - b. If the refunding/restructuring bonds have been issued at the time the school reports to DUAB, include the documents in 2a. revised for the actual results from the restructuring;
 - c. Structure and maturity of all current debt (including voter approved), itemized (for each bond issue) and aggregated;
 - d. The additional cost to taxpayers from the restructuring (the additional interest compared to not restructuring);
 - e. Reason why restructuring of debt was necessary;
 - f. A plan of how any savings from debt restructuring will be used;
 - g. Details as to whether the school corporation is currently running a structural surplus or deficit (include a plan of how any structural deficit will be eliminated if one exists);
 - h. Statement on future capital financing needs (including the amount and timing of any future bond issue);
 - i. Collective bargaining agreements for the past 5 years, including descriptions of any salary increases (include step increases);
 - j. Health care plans and contribution rates for the past 5 years (for teachers, administrators, and school board members), including deductibles, co-pays, co-insurance, and out-of-pocket maximums;
 - k. Total revenue from all sources for each of the past 5 years;
 - l. Total expenditures for each of the past 5 years;
 - m. Detailed expenditures for the most recent completed year (including a breakdown of any travel expenses);
 - n. List of all contracts valued at more than \$30,000 and the value of each (including all employment contracts);
 - o. Enrollment for each of the past 5 years and projected enrollment for the next 5 years;
 - p. Number of full time equivalent (FTE) employees (broken down by teachers, administrators, etc.) for each of the past 5 years;
 - q. Detailed list of all real property owned by the school corporation;
 - r. Detailed list of all new construction over the last 10 years (include a description of the project, total cost, and relevant year(s));
 - s. Latest calculation of dollars to the classroom;
 - t. Balances of all funds on the final day of the month as of the two most recent semi-annual settlements. For example, a petition filed on June 5, 2012 should include the balances of all funds on December 31, 2011, and June 30, 2011; whereas, a petition filed on July 5, 2012 should include the balances of all funds on June 30, 2012, and December 31, 2011;

- u. Amount of ARRA funds (e.g., Title I, state fiscal stabilization, etc.) actually drawn (with dates) and remaining amounts to be drawn;
 - v. Amount of EduJobs funds actually drawn (with dates) and remaining amounts to be drawn;
 - w. Any other information the school corporation or DUAB may consider pertinent.
3. The DUAB shall make a non-binding review with recommendations regarding the school's financial condition and operating practices.

Eligible school corporations that do not meet all of the conditions under I.C. 5-1-5-2.5(d)(3)(B), may still seek to restructure its debt by petitioning the DUAB for approval.

1. The school corporation must submit a financial plan for paying any refunding bonds to the DUAB for review and approval.
2. The school corporation's financial plan shall include the following:
 - a. The resolution adopted by the school board under I.C. 5-1-5-2.5(d)(1), including:
 - i. The annual debt service payments, applicable debt service tax rate, and total debt service payments for the bonds proposed to be retired or refunded;
 - ii. The annual debt service payments, applicable debt service fund tax rate, and total debt service payments for the proposed refunding bonds;
 - iii. The annual increment for each year of the life of the bonds proposed to be retired or refunded and any other benefits to be derived from issuing the refunding bonds.
 - b. Structure and maturity of all current debt (including voter approved), itemized (for each bond issue) and aggregated;
 - c. Detailed financial plan for all funds with proposed restructuring of debt with final maturity;
 - d. The additional cost to taxpayers from the proposed restructuring (the additional interest compared to not restructuring);
 - e. Reason why restructuring of debt is necessary demonstrating that the school corporation cannot simply refinance the debt to achieve savings without extending the length;
 - f. A plan of how any savings from debt restructuring will be used;
 - g. Details as to whether the school corporation is currently running a structural surplus or deficit (include a plan of how any structural deficit will be eliminated if one exists);
 - h. Statement on future capital financing needs (including the amount and timing of any future bond issue);
 - i. Collective bargaining agreements for the past 5 years, including descriptions of any salary increases (including step increases);
 - j. Health care plans and contribution rates for the past 5 years (for teachers, administrators, and school board members), including deductibles, co-pays, co-insurance, and out-of-pocket maximums;
 - k. Total revenue from all sources for each of the past 5 years;
 - l. Total expenditures for each of the past 5 years;
 - m. Detailed expenditures for the most recent completed year (including a breakdown of any travel expenses);
 - n. List of all contracts valued at more than \$30,000 and the value of each (including all employment contracts);
 - o. Enrollment for each of the past 5 years and projected enrollment for the next 5 years;

- p. Number of full time equivalent (FTE) employees (broken down by teachers, administrators, etc.) for each of the past 5 years;
 - q. Detailed list of all real property owned by the school corporation;
 - r. Detailed list of all new construction over the last 10 years (include a description of the project, total cost, and relevant year(s));
 - s. Latest calculation of dollars to the classroom;
 - t. Balances of all funds on the final day of the month as of the two most recent semi-annual settlements. For example, a petition filed on June 5, 2012 should include the balances of all funds on December 31, 2011, and June 30, 2011; whereas, a petition filed on July 5, 2012 should include the balances of all funds on June 30, 2012, and December 31, 2011.
 - u. Amount of ARRA funds (e.g., Title I, state fiscal stabilization, etc.) actually drawn (with dates) and remaining amounts to be drawn;
 - v. Amount of EduJobs funds actually drawn (with dates) and remaining amounts to be drawn;
 - w. Any other information the school corporation or DUAB may consider pertinent.
3. The DUAB has 60 days to approve or deny the financial plan after the later of the date the school corporation submits its financial plan to the DUAB or the date on which the DLGF certifies the school corporation's circuit breaker impact percentage.
4. The DUAB must find that the financial plan is feasible in order to approve. The DUAB may not unreasonably deny approval of a financial plan.

DUAB REVIEW PROCESS

DUAB Administrative Procedures Governing the Petition.

Note: See the attached DUAB Administrative Policies and Procedures.

DUAB Petition Review.

If an eligible school corporation issues refunding bonds and submits a petition to the DUAB for a non-binding review, the DUAB is required to review and provide recommendations regarding the school's financial condition and operating practices.

If an eligible school corporation wishes to issue refunding bonds and submits a financial plan to the DUAB, the DUAB is required to review and either approve or disapprove not more than 60 days after the later of the date the DUAB received the plan or the date DLGF certified the school corporation's circuit breaker impact percentage. The DUAB may approve a financial plan that it finds to be feasible.

DUAB Staffing and Assistance.

The Department of Local Government Finance is required to provide the DUAB with the staff and assistance that it reasonably requires.

The DUAB may contract with accountants, financial experts, and other advisors and consultants as necessary to carry out the DUAB's duties. IC 6-1.1-20.3-5.

The DUAB must keep a record of its proceedings and its orders. IC 6-1.1-20.3-9.

If you have any questions about this memorandum, please contact Ann Kaiser, General Counsel and Policy Director of the Office of Management and Budget at (317) 234-2079 or akaiser@omb.in.gov; or Brian Bailey, Commissioner of the Department of Local Government Finance at (317) 234-5720 or bbailey@dlgf.in.gov.

Attachment:
DUAB Administrative Procedures